

# Illinois: JURY DUTY

## Summary

- Employers in Illinois must excuse employees from work to serve on a jury.
- All employees in Illinois may take time off from work to respond to a jury duty summons.
- Employers do not have to compensate an employee for his or her time spent on jury duty.
- Illinois law protects an employee's job when the employee serves on a jury. Employers cannot terminate or penalize an employee for serving on a jury.

## Employers Obligated to Provide Leave

All employers in Illinois must provide time off to employees for jury duty. +705 ILCS 305/4.1; +705 ILCS 310/10.1.

## Employees Qualified for the Leave

All employees in Illinois may take time off from work to respond to a jury duty summons. An employer must allow an employee time off from work to serve on the jury regardless of what shift the employee works. An employer may not require a night shift worker to work the night that the employee served on a jury during the day. +705 ILCS 305/4.1(a); +705 ILCS 310/10.1(a).

The employee must give his or her employer reasonable notice of required jury service. The reasonable notice requirement is satisfied when the employee delivers a copy of the summons within 10 days of issuance of the summons to the employee. +705 ILCS 305/4.1(c); +705 ILCS 310/10.1(c).

A prospective juror can request to be excused from jury service if he or she can show that the service would impose an undue hardship due to the nature of his or her occupation or business affairs, among other reasons. +705 ILCS 305/10.2.

## Compensation During Leave

An employer is *not* required to compensate employees for time taken off to serve on a jury. +705 ILCS 305/4.1(g); +705 ILCS 310/10.1(g).

While not mandated to do so, many employers have jury leave policies that pay employees called to jury duty. In deciding compensation issues, an employer must consider the exempt and nonexempt status of employees.

## Exempt Employees

An employee who is *exempt* under the Fair Labor Standards Act (and therefore not entitled to overtime) must be paid for the whole week for any workweek in which he or she served as a juror, but also performed any actual work. The employer may offset any amount received by an exempt employee as jury fees for a particular week against the salary due for that week. The employee need not be paid for any workweek during which he or she performs no work; for example, when an employee is on jury duty for an entire workweek.

### **Nonexempt Employees**

The Fair Labor Standards Act does not require employers to pay *nonexempt* employees (typically, hourly workers who are entitled to overtime pay for working more than 40 hours in a workweek) for time spent away from work because of jury duty obligations. Employers may elect to pay such employees, but deduct the amount paid by the court from any compensation paid. This practice is consistent with the philosophy behind the jury duty protection laws, which are intended to encourage individuals to perform their civic duty. However, because it is possible that an employee on jury duty may become involved in a long trial, written company policies should specify that any pay that is granted will be calculated as regular base pay only (no overtime) and will be limited to some finite period. If the employer does not intend to pay employees for lengthy jury service, there must be a written policy in place informing employees of that fact (i.e., an employer's policy can indicate that after a certain length of time, the employee's jury service will no longer be paid leave). Failure to specify such limitation of payment could result in having to pay the employee for the entire length of his or her service.

### **Reinstatement**

Employees serving on a jury must be treated as though they are on furlough or a leave of absence and are entitled to participate in insurance and other benefits in accordance with established rules and practices relating to employees on furlough or leave of absence.

Upon completion of jury service, an employee must be reinstated to his or her former position without loss of seniority. + 705 ILCS 305/4.1(d); + 705 ILCS 310/10.1(d).

### **Prohibited Actions**

An employer may not terminate, threaten to terminate, intimidate or coerce any employee as a result of jury service or attendance in court in connection with such service. + 705 ILCS 305/4.1(b); + 705 ILCS 310/10.1(b).